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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	10/699,619
	Filing Date	October 31, 2003
	First Named Inventor	Moss et al.
	Group Art Unit	3634
	Examiner Name	B. Lev
Attorney Docket Number		3052-5698US

ENCLOSURES (check all that apply)		
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm or Individual name	Bradley B. Jensen	Registration No. 46,801
Signature		
Date	July 20, 2005	

CERTIFICATE OF MAILING	
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**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**In re Application of:**

Moss et al.

**Serial No.:** 10/699,619

**Filed:** October 31, 2003

**For:** EXTENSIBLE, SELF LOCKING  
PLATFORM AND METHOD OF USING  
SAME

**Confirmation No.:** 9957

**Examiner:** B. Lev

**Group Art Unit:** 3634

**Attorney Docket No.:** 3052-5698US

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**BRIEF ON APPEAL**

Mail Stop Appeal Brief – Patent  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sirs:

This brief is submitted in the format required under 37 C.F.R. § 41.37(c). A check in the amount of \$250.00 for the fee under 37 C.F.R § 41.20(b)(2) for filing a brief in support of an appeal is enclosed.

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1) REAL PARTY IN INTEREST

The real party in interest in the present pending appeal is Wing Enterprises, Inc., Assignee of the pending application as recorded with the United States Patent and Trademark Office on March 11, 2004, at Reel 015066, Frame 0337.

2) RELATED APPEALS AND INTERFERENCES

Neither the Appellants, the Appellants' representative nor the Assignee is aware of any pending appeal or interference which would directly affect, be directly affected by or have any bearing on the Board's decision in the present pending appeal.

3) STATUS OF THE CLAIMS

Claims 1 through 41 are pending in the application.

Claims 1 through 41 stand rejected.

Claims 1 through 41 are the subject of the present pending appeal.

4) STATUS OF AMENDMENTS

No amendments have been proposed in the present application subsequent the rejection mailed Jan. 31, 2005.

5) SUMMARY OF THE CLAIMED SUBJECT MATTER

The presently claimed invention is directed to an extensible, locking platform and method of using same. Generally, with reference to FIGS. 1A, 1B, 6A and 6B, the platform (100, 100')

includes a first assembly (102A) having a first plurality of substantially parallel longitudinally extending members (104) and a second assembly (102B) having a second plurality of substantially parallel longitudinally extending members (106). The first and second assemblies (102A, 102B) are longitudinally, slidably coupled with each other. The platform (100, 100') may also include one or more catch devices to lock a portion of the platform (e.g., an assembly 102A, 102B) relative to some other structure. (See, e.g., As-filed Application, paragraphs 0024 – 0026).

In one embodiment, with reference to FIG. 2 at least one catch member (124) is pivotably coupled to the first assembly with an associated stop member (108). The stop member (108) is configured to maintain a rotation of the at least one catch member (104) at less than a full revolution such that when the catch member (124) is being abutted against an elevated support structure and the platform is being laterally displaced relative thereto, the catch member (124) will also abut the stop member (108) and prevent further displacement of the platform (100) relative to the elevated support structure. (See, e.g., As-filed Application, paragraphs, 0029-0031).

Referring to FIG. 4, the platform (100) may be placed upon two laterally spaced supports such as, for example, the rungs of a pair of laterally spaced step ladders (150A and 150B) although other support structures may be used with the platform. The step ladders (150A and 150B) or other support structures may be spaced apart a desired distance with the platform (100) configured to extend the distance therebetween. Depending, for example, on the spatial limitations of a given work area, the ladders may be spaced closer or further apart and the platform (100) may be contracted or extended (such as indicated in dashed lines) to

accommodate the spacing of the ladders (150A and 150B) or other supports and provide an appropriately sized working surface.

With reference to FIGS. 5A-5C, the operation of the self-locking catch mechanism may be seen. Referring first to FIG. 5A, the end of the platform (100), or more specifically, the end of the first assembly (102A) of the platform may be placed on a support such as, for example, the rung (160) of a ladder. The platform (100), or at least the first assembly (102A) thereof, may then be displaced in the direction indicated by directional arrow (162). It is noted that the displacement indicated by directional arrow (162), and discussed in further detail below, essentially involves the displacement of the first assembly (102A), which may occur as a result of extending the first and second assemblies (102A and 102B) relative to one another or as a result of the entire platform (100) being displaced.

As the first assembly (102A) is displaced relative to the rung (160), the catch member (124) may contact the rung (160). As shown in FIG. 5B, if the catch member (124) contacts the rung (160), it will rotate in a first direction about its associated cross member (122) (e.g., clockwise as shown in FIG. 5B) and allow the first assembly (102A) to continue in the direction indicated by directional arrow (162'). As the first assembly (102A) is displaced even further, the catch member (124) will eventually move beyond the rung (160) at which time it will rotate back to its original position, due to gravity, such as is shown in FIG. 5C. Once the catch member (124) has rotated back to its original position, the first assembly (102A) may be displaced in the opposite direction, relative to the rung (160), as is indicated by directional arrow (164). Again, the catch member (124) will come in contact with the rung (160) during such displacement. As shown in FIG. 5D, upon contact with the rung (160), the catch

member (124) will rotate in a second direction relative to the cross member (122) (e.g., counter clockwise as shown in FIG. 5D) until the catch member (124) abuts the lateral support member (108) (or its associated spacers 112). When the catch member (124) abuts the lateral support member (108) it acts as a stop member for the platform (100) and keeps the platform from being further displaced relative to the rung (160). (See, e.g., As-filed Application, paragraphs 0036-0041).

In another embodiment of the invention, a catch device (180) may include a body portion (182) extending through longitudinal members (104A and 104B) of the first assembly (102A) such as shown in FIGS. 6A, 6B and 7. The body portion (182) may be movable relative to the longitudinal members (104) between a first position (184), wherein the body extends or projects from the upper surface (134) and is substantially flush with the undersurface (136) of the platform (100'), and a second position (186 - shown in dashed lines) wherein the body portion extends or projects from the undersurface (136) and is substantially flush with the upper surface (134) of the platform (100').

In one embodiment, the body portion (182) of the catch device (180) may extend directly through an opening or channel (190) formed in the longitudinal member (104A). In another embodiment, such as shown in FIG. 8, a sleeve or collar (192) may be disposed within the opening (190) formed in the longitudinal member (104A) and the body portion (182) may be disposed within an opening formed in the sleeve or collar (192).

A first flange (194A) may be formed at, or coupled to, a first end of the body portion (182) and a second flange (194B) may be formed at, or coupled to, a second end of the body portion (182). The sleeve or collar (192), or the longitudinal member 104A, may exhibit

shoulder sections (196A and 196B) adjacent the upper surface (134) and the undersurface (136) of the platform (100') respectively. Thus, with the body portion (182) in the first position (184) projecting from the upper surface (134) of the platform (100'), the lower flange (194B) may be received in the shoulder section (196B) such that the flange (194B) is substantially flush with the undersurface (136). Similarly, when the body portion is in the second position (186), the upper flange (194A) may be received in the shoulder section (196A) such that the flange (194A) is substantially flush with the upper surface (134).

In one embodiment, the body portion (182) may be configured to freely slide relative to longitudinal member (104A) such that gravity always pulls the body portion (182) downward (towards the ground) regardless of the orientation of the platform (100'). In other words, with the body portion (182) freely slidable relative to the longitudinal member (104A), if the platform was flipped over such that the upper surface (134) and undersurface (136) were reversed, the body portion (182) would automatically be pulled downwardly due to gravity. Such a feature would ensure that the catch device was always ready for engagement with, for example, the rung (160) of a ladder regardless of the orientation of the platform (100').

In another embodiment, the body portion (182) may be configured to be slidable relative to the longitudinal member (104A), but only upon application of a force by a user of the platform (100'). For example, the body portion (182) may be sized and configured to provide an interfering fit with the sleeve or collar (192) such that it stays in the first position (184), regardless of the effects of gravity, until a user physically pushes the body portion (182) into the second position (186). With the catch device (180) in the second position (186), it may serve as a catch or stop by engaging the rung (160) of a ladder, or the edge of some other support

member, to prevent sliding or “walking” of the platform relative to a support member such as described above herein. (See, e.g., As-filed Application, paragraphs 0043-0048).

6) GROUND OF REJECTION TO BE REVIEWED ON APPEAL

A) Claims 22 through 38 and 41 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Bartnicki (U.S. Patent No. 5,067,589).

B) Claims 39 and 40 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bartnicki (U.S. Patent No. 5,067,589).

C) Claims 1 through 9 and 13 through 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bartnicki (U.S. Patent No. 5,067,589) in view of Salo et al. (U.S. Patent No. 5,401,315).

D) Claims 20 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bartnicki (U.S. Patent No. 5,067,589) in view of Salo et al. (U.S. Patent No. 5,401,315).

E) Claims 10 through 12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bartnicki (U.S. Patent No. 5,067,589) in view of Salo et al. (U.S. Patent No. 5,401,315) further in view of Paterson et al. (U.S. Patent No. 3,790,417).

F) Claim 19 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Bartnicki (U.S. Patent No. 5,067,589) in view of Salo et al. (U.S. Patent No. 5,401,315) further in view of Taylor (U.S. Patent No. 3,765,509).



7) ARGUMENTS

**STANDARD OF PATENTABILITY UNDER 35 U.S.C. §§ 102 and 103(a)**

Rejection of claims under 35 U.S.C. § 102 requires that the Patent and Trademark Office (hereinafter “the Office”)

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Rejection of claims under 35 U.S.C. § 103(a) requires that the Office must first establish a prima facie case of obviousness. M.P.E.P. § 2142. The standard for establishing a prima facie case of obviousness is set forth in M.P.E.P. 706.02(j) where it states:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Applicant’s disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

In view of these standards, and the arguments set forth below, Appellants respectfully submit that the rejections of claims 1-41 are improper.

#### **ASSERTION OF FUNCTIONAL RECITATIONS**

In the Final Action, in response to Appellants previously submitted Amendment, the Examiner states the following:

As concerns remarks pertaining to the functionality of the members, the examiner takes the position that the functionality of structural members alone do not qualify as patentable subject matter within an apparatus claim. (Final Action, page 5).

Appellants submit that all arguments regarding patentability of the claims set forth in the previously submitted Amendments, as well as the arguments regarding patentability of the claims presented hereinbelow are directed to *structural* limitations of the claims and not functional recitations. Appellants further note that, even if a limitation being reviewed by the Examiner were considered to include language that places an element in a functional context, that such language is permissible. For example, MPEP § 2173.05(g) sets forth the following examples:

It was held that the limitation used to define a radical on a chemical compound as “incapable of forming a dye with said oxidizing developing agent” although functional, was perfectly acceptable because it set definite boundaries on the patent protection

sought. *In re Barr*, 444 F.2d 588, 170 USPQ 33 (CCPA 1971).

In a claim that was directed to a kit of component parts capable of being assembled, the Court held that limitations such as “members adapted to be positioned” and “portions...being resiliently dilatable whereby said housing may be slidably positioned” serve to precisely define present structural attributes of interrelated component parts of the claimed assembly. *In re Venezia*, 530 F.2d 956, 189 USPQ 149 (CCPA 1976).

The Examiner did not identify any specific elements or limitations that are asserted to be purely functional and not accorded any patentable weight. Appellants, therefore, submit that the Examiner’s assertions of Appellants’ arguments being directed to functionality is improper.

Finally, if the Examiner’s remarks are directed to Appellants’ discussion of the prior art references, including the structural arrangement and functionality of the various components cited by the Examiner, Appellants submit that the function of such components goes directly to the issue of why one of ordinary skill in the art would or would not be motivated to combine the applied references in the manner proposed by the Examiner. As such, any discussion regarding the operation of the various devices of the applied prior references is not only considered to be proper, but necessary.

#### **A.1 PATENTABILITY OF CLAIMS 22, 23, 29, 31, 36 THROUGH 38 AND 41**

In an Office Action mailed Jan 31, 2205 and made final (hereinafter the “Final Action”) the Examiner rejected claims 22, 23, 29, 31, 36 through 38 and 41 under 35 U.S.C. § 102(b) as

being anticipated by U.S. Patent No. 5,067,589 to Bartnicki (hereinafter "Bartnicki").

Independent claim 22 is directed to a platform assembly. The platform assembly comprises: a first assembly having at least one longitudinally extending member; a second assembly having at least one longitudinally extending member, the second assembly being longitudinally, slidably coupled with the first assembly, wherein *an intended working surface of the platform assembly is defined at least in part by the first assembly and at least in part by the second assembly*; and at least one catch device associated with the first assembly and positionable between a first position *wherein a body portion of the at least one catch device projects from the intended working surface* and a second position *wherein the body portion projects from a second opposing surface of the platform assembly*.

The Examiner cites Bartnicki as disclosing "a platform assembly comprising a first assembly having a longitudinally extending member; a second assembly having a longitudinally extending member and being slidably coupled with the first assembly; and a catch device 18 associated with the first assembly and having a body portion projection from a first surface and including a sleeve having shoulder sections/collar and flanges (inclusive of members 124 and 142) and forming an interference fit, wherein the catch extends through an opening in the first member; spacers (inclusive of members 42 and 76)., [sic] the extending members having a polygonal cross-section including rectangular and being interleaved." (Final Action, page 3). Appellants respectfully traverse the rejection of claim 22 and submit that Bartnicki fails to describe all of the elements and limitations of claim 22.

Bartnicki discloses a support having two support sections (14 and 16) slidably engaged with each other. A lock (18) is used to fix the location of the first location support section

relative to the second support section in one of a number of specified positions. The lock of Bartnicki includes a biased pin coupled to the side of the first support section and configured to engage one of a plurality of openings in a portion of the second support section. Application of an appropriate force on the pin overcomes the biasing force allowing the pin to become disengaged from the openings of the section support section thereby allowing the support sections to slide relative to one another. (See, e.g., col. 2, line 65 through col. 3, line 8).

However, Bartnicki fails to describe all of the limitations of claim 22 of the presently claimed invention. Specifically, Bartnicki fails to describe a platform assembly wherein an intended working surface is defined *at least in part by the first assembly and at least in part by the second assembly*, and wherein at least one catch device associated with the first assembly and positionable between a first position *wherein a body portion of the at least one catch device projects from the intended working surface* and a second position wherein the body portion projects *from a second opposing surface*. It is noted that the Examiner fails to cite Bartnicki as describing such subject matter and does not address such limitations in the presently considered rejection.

The lock of Bartnicki, which the Examiner characterizes as being a catch, is configured to extend from a lateral side of *a single, longitudinally extending decking member* for selective engagement of openings formed in another, adjacent longitudinally extending member. While one may argue that a body portion of Bartnicki's lock extends from "a surface" of one of the support sections (e.g., the side surface of support section 14), that side surface of the support section is clearly *not* an intended working surface which is defined *at least in part by the first assembly and at least in part by the second assembly*. Thus, the lock of Bartnicki is not

described to project from such an intended working surface of the disclosed support, nor is it described to project from a surface opposing the intended working surface.

As such, Appellants submit that claim 22 is clearly not anticipated by Bartnicki. Appellants further submit that claims 22, 23, 29, 31, 36 through 38 and 41 are also allowable over Bartnicki at least by virtue of their allowance from a dependent claim. Appellants, therefore, respectfully request reversal of the Examiner's rejection of claims 22, 23, 29, 31, 36 through 38 and 41 under 35 U.S.C. § 102(b).

#### **A.2 PATENTABILITY OF CLAIM 24**

In the Final Action, the Examiner rejected claim 24 under 35 U.S.C. § 102(b) as being anticipated by Bartnicki (U.S. Patent No. 5,067,589).

Claim 24 depends from independent claim 22 by way of intervening claim 23 and introduces the additional subject matter of the body portion of the at least one catch device extending through an opening defined in the at least one longitudinally extending member of the first assembly.

In addition to being dependent from an allowable base claim (see arguments regarding claim 22 in section A.1 hereinabove), Bartnicki fails to describe the body portion of the at least one catch device extending through an opening defined in the at least one longitudinally extending member of the first assembly while also being positionable between a first position wherein a body portion projects from *the intended working surface*, as defined in claim 22, and a second position wherein the body portion projects from the second opposing surface.

Appellants, therefore, submit that claim 24 is clearly allowable over Bartnicki and respectfully reversal of the Examiner's rejection thereof under 35 U.S.C. § 102(b).

### **A.3 PATENTABILITY OF CLAIM 25**

In the Final Action, the Examiner rejected claim 25 under 35 U.S.C. § 102(b) as being anticipated by Bartnicki (U.S. Patent No. 5,067,589).

Claim 25 depends from independent claim 22 by way of intervening claims 23 and 24 and introduces the additional subject matter of a sleeve disposed between the opening defined in the at least one longitudinally extending member and the body portion of the at least one catch device.

In addition to being dependent from an allowable base claim (see arguments set forth in sections A.1 and A.2 hereinabove), Bartnicki fails to describe a sleeve disposed between the opening defined in the at least one longitudinally member and the body portion of the at least one catch device, wherein the catch device is configured as set forth in claim 22.

Appellants, therefore, submit that claim 25 is clearly allowable over Bartnicki and respectfully reversal of the Examiner's rejection thereof under 35 U.S.C. § 102(b).

### **A.4 PATENTABILITY OF CLAIM 26**

In the Final Action, the Examiner rejected claim 26 under 35 U.S.C. § 102(b) as being anticipated by Bartnicki (U.S. Patent No. 5,067,589).

Claim 26 depends from independent claim 22 by way of intervening claims 23 through 25 and introduces the additional subject matter of the at least one catch device further including a

first flange at a first end of the body portion and a second flange at a second opposing end of the body portion.

In addition to being dependent from an allowable base claim (see arguments set forth in sections A.1 through A.3 hereinabove), Bartnicki fails to describe the additional subject matter introduced by claim 26. While the lock (16) Bartnicki includes a handle (116) at one end thereof, it clearly does not include a flange at an opposing end thereof. Nor has the Examiner pointed to any such description by Bartnicki.

Appellants, therefore, submit that claim 26 is clearly allowable over Bartnicki and respectfully reversal of the Examiner's rejection thereof under 35 U.S.C. § 102(b).

#### **A.5 PATENTABILITY OF CLAIM 27**

In the Final Action, the Examiner rejected claim 27 under 35 U.S.C. § 102(b) as being anticipated by Bartnicki (U.S. Patent No. 5,067,589).

Claim 27 depends from independent claim 22 by way of intervening claims 23 through 26 and introduces the additional subject matter of the sleeve includes a first shoulder section defined in a first end thereof, the first shoulder section being sized and configured to removably receive the first flange therein and, a second shoulder section defined in a second opposing end of the sleeve, the second shoulder section being sized and configured to removably receive the second flange therein.

In addition to being dependent from an allowable base claim (see arguments set forth in sections A.1 through A.4 hereinabove), Bartnicki fails to describe a sleeve that includes a first shoulder section defined in a first end thereof, the first shoulder section being sized and



configured to removably receive the first flange therein and, a second shoulder section defined in a second opposing end of the sleeve, the second shoulder section being sized and configured to removably receive the second flange therein. Nor has the Examiner pointed to any such description by Bartnicki.

Appellants, therefore, submit that claim 27 is clearly allowable over Bartnicki and respectfully request reversal of the Examiner's rejection thereof under 35 U.S.C. § 102(b).

#### **A.6 PATENTABILITY OF CLAIM 28**

In the Final Action, the Examiner rejected claim 28 under 35 U.S.C. § 102(b) as being anticipated by Bartnicki (U.S. Patent No. 5,067,589).

Claim 28 depends from independent claim 22 by way of intervening claims 23 through 25 and introduces the additional subject matter of the body portion of the at least one catch device and the sleeve being cooperatively sized and configured to provide an interference fit therebetween.

In addition to being dependent from an allowable base claim (see arguments set forth in sections A.1 through A.3 hereinabove), Bartnicki fails to describe the additional subject matter introduced by claim 28. While the Examiner states that "there is a degree of friction between the elongated members of Bartnicki and [such] qualifies as an 'interference fit'" (Final Action, page 5), claim 28 recites that *the body portion of the at least one catch device and the sleeve* are cooperatively sized and configured to provide an interference fit therebetween. Appellants maintain that Bartnicki fails to disclose any such arrangement and, furthermore, that an

interference fit between the body portion of the lock and the mounting would be contrary to principle of operation of Bartnicki's lock (18) as disclosed thereby.

Appellants, therefore, submit that claim 28 is clearly allowable over Bartnicki and respectfully reversal of the Examiner's rejection thereof under 35 U.S.C. § 102(b).

#### **A.7 PATENTABILITY OF CLAIM 30**

In the Final Action, the Examiner rejected claim 30 under 35 U.S.C. § 102(b) as being anticipated by Bartnicki (U.S. Patent No. 5,067,589).

Claim 30 depends from independent claim 22 by way of intervening claims 23 and 24 and introduces the additional subject matter of the body portion of the at least one catch device and the opening defined in the at least one longitudinally extending member of the first assembly being cooperatively sized and configured to provide an interference fit therebetween.

In addition to being dependent from an allowable base claim (see arguments set forth in sections A.1 and A.2 hereinabove), Bartnicki fails to describe that the body portion of the at least one catch device and the opening defined in the at least one longitudinally extending member of the first assembly are cooperatively sized and configured to provide an interference fit therebetween. Again, while the Examiner states that "there is a degree of friction between the elongated members of Bartnicki and [such] qualifies as an 'interference fit'" (Final Action, page 5), claim 30 recites that *the body portion of the at least one catch device and the opening defined in the at least one longitudinally extending member of the first assembly are cooperatively sized and configured to provide an interference fit therebetween*. Appellants maintain that Bartnicki fails to disclose any such arrangement and, furthermore, that an interference fit between the body

portion of Bartnicki's lock and the mounting would be contrary to principle of operation of Bartnicki's lock (18) as disclosed thereby.

Appellants, therefore, submit that claim 30 is clearly allowable over Bartnicki and respectfully reversal of the Examiner's rejection thereof under 35 U.S.C. § 102(b).

#### **A.8 PATENTABILITY OF CLAIMS 32 AND 34**

In the Final Action, the Examiner rejected claims 32 and 34 under 35 U.S.C. § 102(b) as being anticipated by Bartnicki (U.S. Patent No. 5,067,589).

Claim 32 depends from independent claim 22 by way of intervening claim 23 and introduces the additional subject matter of a collar disposed between the at least one longitudinally extending member of the first assembly and an adjacent longitudinally extending member and, wherein the body portion of the at least one catch device extends through an opening defined by the collar.

Claim 34 further depends from claim 32 and introduces the additional subject matter of the body portion of the at least one catch device and the collar being cooperatively sized and configured such that the body portion freely slides relative to the collar without substantial interference therebetween.

In addition to being dependent from an allowable base claim (see arguments set forth in section A.1 hereinabove), Appellants submit that Bartnicki fails to describe a collar disposed *between the at least one longitudinally extending member of the first assembly and an adjacent longitudinally extending member* and, wherein the body portion of the at least one catch device,

configured as set forth in claim 22, extends through an opening defined by the collar. Nor has the Examiner pointed to any such description by Bartnicki.

Appellants, therefore, submit that claims 32 and 34 are clearly allowable over Bartnicki and respectfully reversal of the Examiner's rejection thereof under 35 U.S.C. § 102(b).

### **A.9 PATENTABILITY OF CLAIM 33**

In the Final Action, the Examiner rejected claim 33 under 35 U.S.C. § 102(b) as being anticipated by Bartnicki (U.S. Patent No. 5,067,589).

Claim 33 depends from independent claim 22 by way of intervening claims 23 and 32 and introduces the additional subject matter of the body portion of the at least one catch device and the collar being cooperatively sized and configured to provide an interference fit therebetween.

In addition to being dependent from an allowable base claim (see arguments set forth in sections A.1 and A.8 hereinabove), Appellants submit that Bartnicki fails to describe the additional subject matter introduced by claim 33. While the Examiner states that "there is a degree of friction between the elongated members of Bartnicki and [such] qualifies as an 'interference fit'" (Final Action, page 5), claim 33 recites that the *body portion of the at least one catch device and the collar* being cooperatively sized and configured to provide an interference fit therebetween.. Appellants maintain that Bartnicki fails to disclose any such arrangement and, furthermore, that an interference fit between the body portion of Bartnicki's lock and the mounting would be contrary to principle of operation of Bartnicki's lock (18) as disclosed thereby.

Appellants, therefore, submit that claim 33 is clearly allowable over Bartnicki and respectfully reversal of the Examiner's rejection thereof under 35 U.S.C. § 102(b).

#### **A.10 PATENTABILITY OF CLAIM 35**

In the Final Action, the Examiner rejected claim 35 under 35 U.S.C. § 102(b) as being anticipated by Bartnicki (U.S. Patent No. 5,067,589).

Claim 35 depends from independent claim 22 by way of intervening claim 23 and introduces the additional subject matter of at least one catch device associated with the second assembly and positionable between a first position wherein a body portion of the at least one catch device associated with the second assembly projects from the intended working surface of the platform assembly and a second position wherein the body portion of the at least one catch device associated with the second assembly projects from the second opposing surface of the platform assembly.

In addition to being dependent from an allowable base claim (see arguments set forth in section A.1 hereinabove), Appellants submit that Bartnicki fails to describe at least one catch device associated with the second assembly and positionable between a first position wherein a body portion of the at least one catch device associated with the second assembly projects from the intended working surface of the platform assembly, as defined in claim 22, and a second position wherein the body portion of the at least one catch device associated with the second assembly projects from the second opposing surface of the platform assembly.

Appellants, therefore, submit that claim 35 is clearly allowable over Bartnicki and respectfully reversal of the Examiner's rejection thereof under 35 U.S.C. § 102(b).

### B.1 PATENTABILITY OF CLAIMS 39 AND 40

In the Final Action, the Examiner rejected claims 39 and 40 under 35 U.S.C. § 103(a) as being unpatentable over Bartnicki (U.S. Patent No. 5,067,589).

Each of claims 39 and 40 are dependent from independent claim 22 by way of intervening claim 23. Claim 39 introduces the additional subject matter of at least one of the first and second pluralities of longitudinally extending members exhibiting a substantially I-beam shaped cross-sectional geometry taken substantially transverse to a longitudinal axis thereof. Claim 40 introduces the additional subject matter of at least one of at least one of the first and second pluralities of longitudinally extending members exhibiting a cross-sectional geometry taken substantially transverse to a longitudinal axis thereof having a first section adjacent a first end thereof, a second section adjacent a second opposing end thereof and at least a third section disposed between the first section and the second section, wherein the at least a third section exhibits a lesser width than either of the first section and the second section.

The Examiner states that Bartnicki discloses the platform of claims 22 and 23 and that the limitations claims 39 and 40 are merely a matter of design choice and, therefore, obvious. Appellants respectfully traverse this rejection.

However, Bartnicki fails to teach or suggest all of the limitations of claim 22 from which claims 39 and 40 depend. More specifically, Bartnicki fails to teach or suggest a platform assembly wherein an intended working surface is defined *at least in part by the first assembly and at least in part by the second assembly*, and wherein at least one catch device associated with

the first assembly and positionable between a first position *wherein a body portion of the at least one catch device projects from the intended working surface* and a second position wherein the body portion projects *from a second opposing surface*.

In contrast, Bartnicki discloses a support having two support sections (14 and 16) slidably engaged with each other and a lock (18) on the side of the first support section configured to fix the location of the first location support section relative to the second support section in one of a number of specified positions through selective engagement with openings of the second support section. The lock of Bartnicki, which the Examiner relies on as being a catch, is configured to extend from a lateral side of a single, longitudinally extending decking member for selective engagement of openings formed in another longitudinally extending member. While one may argue that a body portion of Bartnicki's lock extends from "a surface" of one of the support sections (e.g., the side surface of support section 14), that side surface of the support section is not an intended working surface which is *defined at least in part by the first assembly and at least in part by the second assembly*.

As such, Appellants submit that claims 39 and 40 are clearly allowable over Bartnicki and respectfully request reversal of the Examiner's rejection.

### **C.1 PATENTABILITY OF CLAIMS 1, 2, 9, 13, 14, 17 AND 18**

In the Final Action, the Examiner rejects claims 1, 2, 9 and 13 through 18 under 35 U.S.C. § 103(a) as being unpatentable over Bartnicki (U.S. Patent No. 5,067,589) in view of U.S. Patent No. 5,401,315 to Salo et al. (hereinafter "Salo"). Appellants respectfully traverse this rejection, as hereinafter set forth.

Claim 1 of the presently claimed invention is directed to a platform assembly comprising: a first assembly having at least one longitudinally extending member; a second assembly having at least one longitudinally extending member, the second assembly being longitudinally, slidably coupled with the first assembly; at least one catch member pivotably coupled to the first assembly; and at least one stop member coupled to the first assembly and configured to maintain a rotation of the at least one catch member at less than a full revolution.

The Examiner cites Bartnicki as disclosing first and second assemblies of longitudinally extending members slidably coupled with one another and a catch and a stop member. Essentially the Examiner relies on Bartnicki as teaching all of the limitations of claim 1 “except for the catch and stop member including pivoting members.” (Final Action, page 3). The Examiner then cites Salo as disclosing the use of catch and stop members and concludes that “it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the catch and stop members of Bartnicki by forming them as including pivoting members as taught by Salo et al, in order to provide means to more quickly and easily removably lock the extendible members in a [desired] length.” (*Id.*). Appellants respectfully disagree.

As a preliminary matter, it is noted that the “stop member” of claim 1 is not recited as a “pivoting member” as implied in the Examiner’s rejection.

As previously discussed, Bartnicki discloses a support having two support sections (14 and 16) slidably engaged with each other. A lock (18) is used to fix the location of the first location support section relative to the second support section in one of a number of specified positions. The lock of Bartnicki includes a biased pin coupled to the side of the first support section and configured to engage one of a plurality of openings in a portion of the second support



section. Application of an appropriate force on the pin overcomes the biasing force allowing the pin to become disengaged from the openings of the section support section thereby allowing the support sections to slide relative to one another. (See, e.g., (Col. 2, line 65 through col. 3, line 8).

However, as noted by the Examiner, Bartnicki clearly fails to teach or suggest at least one catch member pivotably coupled to the first assembly and at least one stop member coupled to the first assembly and configured to maintain a rotation of the at least one catch member at less than a full revolution.

Salo discloses a size press (10) used in the production of paper goods which includes a nip (N), formed by press rolls (12, 14), through which a paper or board web is passed. The size press includes coating devices (23, 23a) mounted on applicator beams (20, 20a). The Applicator beams are supported pivotally on the frame (11) of the size press and are provided with pivot cylinders (22a) by which the applicator beams can be opened and closed in relation to a corresponding roll. The applicator beams are further provided with catches (27, 47) supported on holders (24) fixed to the frame. The catches are attached to the applicator beam by articulated joints (28, 48) and are interconnected by way of connecting links (30, 50) and a connecting rod (35). (See, e.g., col. 4, line 9 through col. 5, line 45).

The applicator beams are configured to be angularly adjusted relative to the frame to compensate for a potential difference in position relative to a corresponding roll and to equalize forces applied by the pivot cylinders. Regarding this feature Salo teaches the following:

[I]n contrast to the conventional devices...it is possible to equalize the support forces produced by the pivot cylinders 22. This is achieved by placing the catches 27, 47

at each end of the applicator beam 20 and interconnecting them by means of articulated joints in the manner in accordance with the invention. In such an embodiment, if the roll 14 has been placed diagonally as shown in FIG. 2, when the application beam 20 is being closed, a situation arises in which the cam 49 of the second catch 47 meets the support 45 on the holder 44 first. When this happens, the second catch 47 pivots around its articulated joint 48 and, at the same time, turns the first catch 27 by means of the connecting rod 35, so that the cam 29 of the first catch moves closer to the support 25 provided on the holder 24 and finally into contact with the support 25.

After the closing of the applicator beam 20 has been completed, both of the catches 27, 47 are in contact with the supports 25, 45 with a substantially equal support force. In this case, the support forces produced by the pivot cylinders 22 are equal at each end of the applicator beam 20. Thus, when the pivoting movement of the applicator beam has been completed, the beam is placed in its adjusted position in relation to the roll 14. The kinetic energy of the pivoting movement of the applicator beam 20 is absorbed by means of shock absorbers (not shown), but it is also possible to arrange the shock absorption means on the connecting rod 35 itself (Col. 6, lines 30-59).

In essence, the catches of Salo's size press are configured to *provide angular adjustment of the applicator beam* and to *equalize the forces applied thereto by the pivot cylinders during such angular adjustment*. Appellants submit that there is no motivation to provide such a mechanism with the support structure of Bartnicki.

The Examiner asserts that one of ordinary skill in the art would be motivated to modify the lock of Bartnicki to include the “pivoting members” of Salo “in order to provide means to more quickly and easily removably lock the extendible members” at a desired length. (Final Action, page 3).

However, the catch members of Salo are part of a specific mechanism configured such that, if one catch member pivots, a connecting mechanism causes similar rotation of the other catch member as a part of the compensation process. There is simply no motivation to provide such a mechanism in the support structure of Bartnicki. Appellants submit that simply saying the Salo provides a “pivoting member” that should be added to a specific component of the Bartnicki device, without consideration of the structural and functional context of the “pivoting member,” is no more than impermissibly using hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. (See, e.g., *In re Fine*, 837, F.2d, 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

Moreover, Appellants submit that there is not a reasonable expectation of success that incorporation of the catch mechanism of Salo with the support structure of Bartnicki will result in the easier operation of Bartnicki’s lock as asserted by the Examiner. First, the Examiner as not indicated how the operation of pulling the pin for disengagement of Bartnicki’s lock would be made easier with the proposed incorporation of Salo’s catch mechanism. Appellants submit that modification of Bartnicki’s lock to include a catch member, such as that which is disclosed by Salo, would, at the very least, result in a more complex structure than that taught which is described by Bartnicki.

Appellants note that operation of Bartnicki's lock is already designed to be extremely straightforward and simple while being safe in its operation. Operation of Bartnicki's lock comprises pulling the pin against the biasing force of the spring to remove the lock from the opening of the second support structure. The spring then causes the pin to engage with an opening of the second support structure upon alignment therewith. Appellants, therefore, submit that one of ordinary skill in the art would not be motivated to modify the lock of Bartnicki in the manner proposed by the Examiner and that there is no reasonable expectation of success in such a proposed modification.

Moreover, assuming arguendo that the Examiner's proposed combination would provide means to more quickly and easily removably lock the extendible members as asserted by the Examiner, there is an inherent safety issue in making operation of Bartnicki's lock *too easy* or too efficient. In other words, making the operation of Bartnicki's lock so simple such that inadvertently bumping or pushing would result in the release of the lock (as opposed to pulling action required by the structure of Bartnicki). Such inadvertent disengagement of Bartnicki's lock is in direct contrast with the teachings of Bartnicki wherein the lock is specifically designed to maintain the two sliding sections relative to one another while in use.

As such, Appellants submit that claim 1 is allowable over Bartnicki and Salo. Appellants further submit that claims 2, 9 and 13 through 18 are also allowable as being dependent from an allowable base claim.

Appellants, therefore, respectfully request reversal of the Examiner's rejection of claims 1, 2, 9 and 13 through 18.

### C.2 PATENTABILITY OF CLAIM 3

In the Final Action, the Examiner rejects claim 3 under 35 U.S.C. § 103(a) as being unpatentable over Bartnicki (U.S. Patent No. 5,067,589) in view of Salo (U.S. Patent No. 5,401,315).

Claim 3 depends from independent claim 1 by way of intervening claim 2 and introduces the additional subject matter of at least one catch member pivotably coupled to the second assembly.

In addition to being dependent from an allowable base claim (see arguments set forth in section C.1 hereinabove), Appellants submit that Bartnicki and Salo fail to teach or suggest *at least one catch member pivotably coupled to the second assembly*.

Appellants, therefore, request reversal of the Examiner's rejection of claim 3.

### C.3 PATENTABILITY OF CLAIM 4

In the Final Action, the Examiner rejects claim 4 under 35 U.S.C. § 103(a) as being unpatentable over Bartnicki (U.S. Patent No. 5,067,589) in view of Salo (U.S. Patent No. 5,401,315).

Claim 4 depends from independent claim 1 by way of intervening claims 2 and 3 and introduces the additional subject matter of at least one stop member coupled to the second assembly and configured to maintain a rotation of the at least one catch member coupled to the second assembly at less than a full revolution.

In addition to being dependent from an allowable base claim (see arguments set forth in sections C.1 and C.2 hereinabove), Appellants submit that Bartnicki and Salo fail to teach or

*suggest at least one stop member coupled to the second assembly and configured to maintain a rotation of the at least one catch member coupled to the second assembly at less than a full revolution.*

Appellants, therefore, request reversal of the Examiner's rejection of claim 4.

#### **C.4 PATENTABILITY OF CLAIM 5**

In the Final Action, the Examiner rejects claim 5 under 35 U.S.C. § 103(a) as being unpatentable over Bartnicki (U.S. Patent No. 5,067,589) in view of Salo (U.S. Patent No. 5,401,315).

Claim 5 depends from independent claim 1 by way of intervening claim 2 and introduces the additional subject matter of the at least one catch member being configured to exhibit a substantially bell-shaped geometry along a cross section taken substantially parallel to a longitudinal axis of the first plurality of longitudinally extending members.

In addition to being dependent from an allowable base claim (see arguments set forth in section C.1 hereinabove), Appellants submit that Bartnicki and Salo fail to teach or suggest that the at least one catch member is *configured to exhibit a substantially bell-shaped geometry along a cross section taken substantially parallel to a longitudinal axis of the first plurality of longitudinally extending members*. Nor does the Examiner cite either Bartnicki or Salo as teaching or suggesting such subject matter.

Appellants, therefore, request reversal of the Examiner's rejection of claim 5.

### **C.5 PATENTABILITY OF CLAIMS 6 AND 7**

In the Final Action, the Examiner rejects claims 6 and 7 under 35 U.S.C. § 103(a) as being unpatentable over Bartnicki (U.S. Patent No. 5,067,589) in view of Salo (U.S. Patent No. 5,401,315).

Claim 6 depends from independent claim 1 by way of intervening claims 2 and 5 and introduces the additional subject matter of the at least one stop member including a lateral support member extending through an opening defined in each of the first plurality of longitudinally extending members.

Claim 7 further depends from claim 6 and introduces the additional subject matter of a plurality of spacers wherein at least one spacer of the plurality of spacers is disposed between adjacent longitudinally extending members of the first plurality of longitudinally extending members.

In addition to being dependent from an allowable base claim (see arguments set forth in sections C.1 and C.4 hereinabove), Appellants submit that Bartnicki and Salo fail to teach or suggest that the at least one stop member includes a lateral support member *extending through an opening defined in each of the first plurality of longitudinally extending members*.

Appellants, therefore, request reversal of the Examiner's rejection of claims 6 and 7.

### **C.6 PATENTABILITY OF CLAIM 8**

In the Final Action, the Examiner rejects claim 8 under 35 U.S.C. § 103(a) as being unpatentable over Bartnicki (U.S. Patent No. 5,067,589) in view of Salo (U.S. Patent No. 5,401,315).

Claim 8 depends from independent claim 1 by way of intervening claims 2 and 5, 6 and 7 and introduces the additional subject matter of each of the plurality of spacers being disposed about a portion of the lateral support member.

In addition to being dependent from an allowable base claim (see arguments set forth in sections C.1, C.4 and C.5 hereinabove), Appellants submit that Bartnicki and Salo fail to teach or suggest *at least one spacer disposed between adjacent longitudinally extending members of the first plurality and wherein each of the plurality of spacers is disposed about a portion of the lateral support member.*

Appellants, therefore, request reversal of the Examiner's rejection of claim 8.

#### **D.1 PATENTABILITY OF CLAIM 20**

In the Final Action, the Examiner rejects claim 20 under 35 U.S.C. § 103(a) as being unpatentable over Bartnicki (U.S. Patent No. 5,067,589) in view of Salo (U.S. Patent No. 5,401,315).

Independent claim 20 of the presently claimed invention is directed to a method of securing an elevated platform. The method comprises: providing a first elevated support; providing a first catch member with an associated stop member on the platform; displacing at least a first portion of the platform laterally in a first direction until the catch member is positioned substantially beyond at least a portion of the first elevated support; *displacing the at least a first portion of the platform laterally in a second direction until the first catch member engages the at least a portion of the first elevated support*; further displacing the at least a first portion of the platform laterally in the second direction while *substantially simultaneously*



*rotating the first catch member in a direction towards the associated stop member; and abutting the first catch member against the associated stop member and against the at least a portion of the first elevated support such that the first catch member prevents further displacement of the at least a first portion of the platform in the second direction.*

As set forth hereinabove, Bartnicki discloses a support having two support sections (14 and 16) slidably engaged with each other. A lock (18) is used to fix the location of the first location support section relative to the second support section in one of a number of specified positions. In essence, the lock of Bartnicki includes a biased pin coupled to the side of the first support section and configured to engage one of a plurality of openings in a portion of the second support section. Application of an appropriate force to the pin overcomes the biasing force allowing the pin to become disengaged from the openings of the section support section thereby allowing the support sections to slide relative to one another.

As also discussed hereinabove, Salo discloses a size press (10) used in the production of paper goods which includes a nip (N), formed by press rolls (12, 14), through which a paper or board web is passed. The size press includes coating devices (23, 23a) mounted on applicator beams (20, 20a). The Applicator beams are supported pivotally on the frame (11) of the size press and are provided with pivot cylinders (22a) by which the applicator beams can be opened and closed in relation to a corresponding roll. The applicator beams are further provided with catches (27, 47) supported on holders (24) fixed to the frame. The catches are attached to the applicator beam by articulated joints (28, 48) and are interconnected by way of connecting links (30, 50) and a connecting rod (35). (See, e.g., col. 4, line 9 through col. 5, line 45).

The catches of Salo's size press are configured to provide angular adjustment of the applicator beam and equalize the forces applied thereto by the pivot cylinders during such angular adjustment.

Appellants submit that the proposed combination of Bartnicki and Salo clearly fail to teach or suggest all of the method limitations of the presently claimed invention as set forth in claim 20. More specifically, Bartnicki and Salo fail to teach or suggest *displacing the at least a first portion of the platform laterally in a second direction until the first catch member engages the at least a portion of the first elevated support*. Additionally, Bartnicki and Salo fail to teach or suggest further displacing the at least a first portion of the platform laterally in the second direction while *substantially simultaneously rotating the first catch member in a direction towards the associated stop member; and abutting the first catch member against the associated stop member and against the at least a portion of the first elevated support such that the first catch member prevents further displacement of the at least a first portion of the platform in the second direction*.

Moreover, the Examiner has not cited Bartnicki or Salo as providing such specific teachings or suggestions. Nor has the Examiner indicated how combination of Bartnicki and Salo would result in the recited acts of the inventive method set forth in claim 20.

As such, Appellants submit that claim 20 is clearly allowable over Bartnicki and Salo and respectfully request reversal of the Examiner's rejection thereof.

## D.2 PATENTABILITY OF CLAIM 21

In the Final Action, the Examiner rejects claim 20 under 35 U.S.C. § 103(a) as being unpatentable over Bartnicki (U.S. Patent No. 5,067,589) in view of Salo (U.S. Patent No. 5,401,315).

Claim 21 depends from independent claim 20 and introduces the additional subject matter of:

- providing a second elevated support laterally spaced from the first elevated support;
- providing a second catch member with an associated stop member on the platform;
- laterally displacing a second portion of the platform relative to the at least a first portion of the platform in the second direction until the second catch member is positioned substantially beyond at least a portion of the second elevated support;
- laterally displacing the second portion of the platform relative to the at least a first portion of the platform in the first direction until the second catch member engages the at least a portion of the second elevated support;
- further displacing the second portion of the platform laterally relative to the at least a first portion of the platform in the first direction while substantially simultaneously rotating the second catch member in a direction towards its associated stop member; and
- abutting the second catch member against its associated stop member and against the at least a portion of the second elevated support such that the second catch member

prevents further displacement of the second portion of the platform in the first direction.

In addition to being allowable as being dependent from an allowable base claim (see arguments set forth in section D.1 hereinabove), Appellants submit that Bartnicki and Salo fail to teach or suggest: providing a second catch member with an associated stop member on the platform; laterally displacing a second portion of the platform relative to the at least a first portion of the platform in the second direction until the second catch member is positioned substantially beyond at least a portion of the second elevated support; laterally displacing the second portion of the platform relative to the at least a first portion of the platform in the first direction until the second catch member engages the at least a portion of the second elevated support; further displacing the second portion of the platform laterally relative to the at least a first portion of the platform in the first direction while substantially simultaneously rotating the second catch member in a direction towards its associated stop member; and abutting the second catch member against its associated stop member and against the at least a portion of the second elevated support such that the second catch member prevents further displacement of the second portion of the platform in the first direction.

Appellants, therefore, respectfully request reversal of the Examiner's rejection of claim 21.

### E.1 PATENTABILITY OF CLAIMS 10 THROUGH 12

In the Final Action, the Examiner rejects claims 10 through 12 under 35 U.S.C. § 103(a) as being unpatentable over Bartnicki (U.S. Patent No. 5,067,589) in view of Salo (U.S. Patent No. 5,401,315) and further in view of U.S. Patent No. 3,790,417 to Paterson et al. (hereinafter “Paterson”).

Each of claims 10 through 12 depend from independent claim 1 by way of intervening claims. Claim 10 introduces the additional subject matter of at least one of the first and second pluralities of longitudinally extending members being formed of a composite material. Claim 11, which depends from claim 10, introduces the additional subject matter of the composite material including fiberglass. Claim 12, which also depends from claim 10, introduces the additional subject matter of the composite material including a thermosetting resin.

The Examiner relies on Bartnicki and Salo as applied to claim 1, and then cites Paterson as disclosing “the use of extending members formed of composite materials including fiberglass and thermosetting resin.” (Final Action, page 3). The Examiner concludes that it would have been obvious to one of ordinary skill in the art at the time the invention was made to “modify the extending members of Bartnicki in view of Salo et al by forming them of composite material including fiberglass and thermosetting resin, as taught by Paterson et al, in order to reduce the weight and increase the strength of the extending members and thereby the platform assembly.” (*Id.*). Appellants respectfully disagree.

Appellants maintain that Bartnicki and Salo fail to render the presently claimed invention set forth in claim 1 obvious. As has been set forth hereinabove in extensive detail, there is a clear lack of motivation to combine Bartnicki and Salo in the manner proposed by the Examiner

(see arguments set forth in section C.1 hereinabove). As also discussed hereinabove (see section C.1 herein), there is not a reasonable expectation of success in the proposed combination of Bartnicki and Salo. The additional citation of Paterson fails to add any motivation of combining Bartnicki and Salo or indicating any reasonable expectation of success with regard to the subject matter of independent claim 1.

Paterson discloses a method of producing fiberboard or hardboard by bonding cellulosic fibers with a thermosetting or thermoplastic resin by providing a layered structure of resin layers and resin-treated fiber layers. However, the fibers used by Paterson are stated to be *cellulosic*, not fiberglass as asserted by the Examiner. Additionally, while Paterson asserts that the resultant fiberboard is dimensionally stable “with respect to moisture absorption or desorption,” (col. 1, lines 29-30), Appellants submit that there is no teaching or suggestion that such fiberboard would be desirable in a structural context *such as forming a longitudinally extending member of a platform assembly therewith*.

Appellants, therefore, submit that claims 10 through 12 are allowable over Bartnicki, Salo and Paterson, and respectfully request reconsideration and allowance thereof.

#### **F.1 PATENTABILITY OF CLAIM 19**

In the Final Action, the Examiner rejects claim 19 under 35 U.S.C. § 103(a) as being unpatentable over Bartnicki (U.S. Patent No. 5,067,589) in view of Salo (U.S. Patent No. 5,401,315) and further in view of U.S. Patent No. 3,765,509 to Taylor (hereinafter “Taylor”).

Claim 19 depends from independent claim 1 by way of intervening claim 2. Claim 19 introduces the additional subject matter of the intended working surface including a textured surface.

The Examiner relies on Bartnicki and Salo as applied to claim 1, and then cites Taylor as disclosing a textured material on the surface of a platform assembly. The Examiner then states that it would have been obvious to one of ordinary skill in the art to “modify the surface of at least one of the extending members of Bartnicki in view of Salo et al by including a textured surface, as taught by Taylor, in order to increase the frictional coefficient of the surface and thereby avoid slippage and increase safety.” (Final Action, page 4). Appellants respectfully disagree.

Appellants maintain that Bartnicki and Salo fail to render the presently claimed invention set forth in claim 1 obvious. As has been set forth hereinabove in extensive detail, there is a clear lack of motivation to combine Bartnicki and Salo in the manner proposed by the Examiner. As also discussed hereinabove, there is not a reasonable expectation of success in the proposed combination of Bartnicki and Salo. The additional citation of Paterson fails to add any motivation of combining Bartnicki and Salo or indicating any reasonable expectation of success with regard to the subject matter of independent claim 1.

Additionally, Taylor discloses a scaffold system wherein pads are secured to the *underside* of associated planks. These pads “are constructed of slightly resilient, non-slip material such as synthetic rubber.” (col. 2, lines 4-5). The pads are constructed to prevent slippage between the planks and bars of the scaffold system. Taylor, however, does not appear to disclose a *textured* surface on the *intended working surface* of the planks.

Appellants, therefore, submit that claim 19 is allowable over Bartnicki, Salo and Taylor, and respectfully request reconsideration and allowance thereof.

8) CLAIMS APPENDIX

A copy of claims 1 through 41 is appended hereto as "Appendix A."

9) EVIDENCE APPENDIX

No evidence appendix is included herewith.

CONCLUSION

Appellants respectfully submit that claims 1 through 41 are allowable over the prior art relied upon by the Examiner and respectfully request that the rejections under 35 U.S.C. 102(b) and 35 U.S.C. § 103(a) be reversed.

Respectfully submitted,



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APPENDIX A

**Claims 1 through 41**

**U.S. Patent Application No. 10/699,619**

**Filed October 31, 2003**

1. (Original) A platform assembly comprising:  
a first assembly having at least one longitudinally extending member;  
a second assembly having at least one longitudinally extending member, the second assembly  
being longitudinally, slidably coupled with the first assembly;  
at least one catch member pivotably coupled to the first assembly; and  
at least one stop member coupled to the first assembly and configured to maintain a rotation of  
the at least one catch member at less than a full revolution.
2. (Original) The platform assembly of claim 1, wherein the at least one  
longitudinally extending member of the first assembly includes a first plurality of substantially  
parallel longitudinally extending members and wherein the at least one longitudinally extending  
member of the second assembly includes a second plurality of substantially parallel  
longitudinally extending members.
3. (Original) The platform assembly of claim 2, further comprising at least one catch  
member pivotably coupled to the second assembly.
4. (Previously Presented) The platform assembly of claim 3, further comprising at  
least one stop member coupled to the second assembly and configured to maintain a rotation of  
the at least one catch member coupled to the second assembly at less than a full revolution.

5. (Previously Presented) The platform assembly of claim 2, wherein the at least one catch member is configured to exhibit a substantially bell-shaped geometry along a cross section taken substantially parallel to a longitudinal axis of the first plurality of longitudinally extending members.

6. (Original) The platform assembly of claim 5, wherein the at least one stop member includes a lateral support member extending through an opening defined in each of the first plurality of longitudinally extending members.

7. (Original) The platform assembly of claim 6, further comprising a plurality of spacers wherein at least one spacer of the plurality of spacers is disposed between adjacent longitudinally extending members of the first plurality of longitudinally extending members.

8. (Original) The platform assembly of claim 7, wherein each of the plurality of spacers is disposed about a portion of the lateral support member.

9. (Original) The platform assembly of claim 2, wherein at least one of the first and second pluralities of longitudinally extending members are each formed of a material comprising aluminum.

10. (Original) The platform assembly of claim 2, wherein at least one of the first and second pluralities of longitudinally extending members are each formed of a composite material.

11. (Original) The platform assembly of claim 10, wherein the composite material includes fiberglass.

12. (Original) The platform assembly of claim 10, wherein the composite material includes a thermosetting resin.

13. (Previously Presented) The platform assembly of claim 2, wherein at least one of the first and second pluralities of longitudinally extending members exhibits a closed polygonal cross-sectional geometry taken substantially transverse to a longitudinal axis thereof.

14. (Previously Presented) The platform assembly of claim 13, wherein the closed polygonal cross-sectional geometry includes a substantial rectangular geometry.

15. (Previously Presented) The platform assembly of claim 2, wherein at least one of the first and second pluralities of longitudinally extending members exhibits a substantially I-beam shaped cross-sectional geometry taken substantially transverse to a longitudinal axis thereof.

16. (Previously Presented) The platform assembly of claim 2, wherein at least one of the first and second pluralities of longitudinally extending members exhibits a cross-sectional geometry taken substantially transverse to a longitudinal axis thereof having a first section

adjacent a first end thereof, a second section adjacent a second opposing section thereof and at least a third section disposed between the first section and the second section, wherein the at least a third section exhibits a lesser width than either of the first section and the second section.

17. (Original) The platform assembly of claim 2, wherein the first plurality of longitudinally extending members is interleaved with the second plurality of longitudinally extending members.

18. (Previously Presented) The platform assembly of claim 2, wherein the intended working surface and the second, opposing surface are substantially identical.

19. (Previously Presented) The platform assembly of claim 2, wherein the intended working surface includes a textured surface.

20. (Previously Presented) A method of securing an elevated platform, the method comprising:

providing a first elevated support;

providing a first catch member with an associated stop member on the platform;

displacing at least a first portion of the platform laterally in a first direction until the catch

member is positioned substantially beyond at least a portion of the first elevated support;

displacing the at least a first portion of the platform laterally in a second direction until the first

catch member engages the at least a portion of the first elevated support;

further displacing the at least a first portion of the platform laterally in the second direction while substantially simultaneously rotating the first catch member in a direction towards the associated stop member; and  
abutting the first catch member against the associated stop member and against the at least a portion of the first elevated support such that the first catch member prevents further displacement of the at least a first portion of the platform in the second direction.

21. (Previously Presented) The method according to claim 20, further comprising:  
providing a second elevated support laterally spaced from the first elevated support;  
providing a second catch member with an associated stop member on the platform;  
laterally displacing a second portion of the platform relative to the at least a first portion of the platform in the second direction until the second catch member is positioned substantially beyond at least a portion of the second elevated support;  
laterally displacing the second portion of the platform relative to the at least a first portion of the platform in the first direction until the second catch member engages the at least a portion of the second elevated support;  
further displacing the second portion of the platform laterally relative to the at least a first portion of the platform in the first direction while substantially simultaneously rotating the second catch member in a direction towards its associated stop member; and  
abutting the second catch member against its associated stop member and against the at least a portion of the second elevated support such that the second catch member prevents further displacement of the second portion of the platform in the first direction.

22. (Previously Presented) A platform assembly comprising:  
a first assembly having at least one longitudinally extending member;  
a second assembly having at least one longitudinally extending member, the second assembly  
being longitudinally, slidably coupled with the first assembly, wherein an intended  
working surface of the platform assembly is defined at least in part by the first assembly  
and at least in part by the second assembly; and  
at least one catch device associated with the first assembly and positionable between a first  
position wherein a body portion of the at least one catch device projects from the intended  
working surface and a second position wherein the body portion projects from a second  
opposing surface of the platform assembly.

23. (Original) The platform assembly of claim 22, wherein the at least one  
longitudinally extending member of the first assembly includes a first plurality of substantially  
parallel longitudinally extending members and wherein the at least one longitudinally extending  
member of the second assembly includes a second plurality of substantially parallel  
longitudinally extending members.

24. (Previously Presented) The platform assembly of claim 23, wherein the body  
portion of the at least one catch device extends through an opening defined in the at least one  
longitudinally extending member of the first assembly.

25. (Original) The platform assembly of claim 24, further comprising a sleeve disposed between the opening defined in the at least one longitudinally extending member and the body portion of the at least one catch device.

26. (Original) The platform assembly of claim 25, wherein the at least one catch device further includes a first flange at a first end of the body portion and a second flange at a second opposing end of the body portion.

27. (Previously Presented) The platform assembly of claim 26, wherein the sleeve includes a first shoulder section defined in a first end thereof, the first shoulder section being sized and configured to removably receive the first flange therein and, a second shoulder section defined in a second opposing end of the sleeve, the second shoulder section being sized and configured to removably receive the second flange therein.

28. (Original) The platform assembly of claim 25, wherein the body portion of the at least one catch device and the sleeve are cooperatively sized and configured to provide an interference fit therebetween.

29. (Original) The platform assembly of claim 25, wherein the body portion of the at least one catch device and the sleeve are cooperatively sized and configured such that the body portion freely slides relative to the sleeve without substantial interference therebetween.



30. (Previously Presented) The platform assembly of claim 24, wherein the body portion of the at least one catch device and the opening defined in the at least one longitudinally extending member of the first assembly are cooperatively sized and configured to provide an interference fit therebetween.

31. (Previously Presented) The platform assembly of claim 24, wherein the body portion of the at least one catch device and the opening of the at least one longitudinally extending member of the first assembly cooperatively sized and configured such that the body portion freely slides relative to the at least one longitudinally extending member of the first assembly without substantial interference therebetween.

32. (Previously Presented) The platform assembly of claim 23, further comprising a collar disposed between the at least one longitudinally extending member of the first assembly and an adjacent longitudinally extending member and, wherein the body portion of the at least one catch device extends through an opening defined by the collar.

33. (Original) The platform assembly of claim 32, wherein the body portion of the at least one catch device and the collar are cooperatively sized and configured to provide an interference fit therebetween.

34. (Previously Presented) The platform assembly of claim 32, wherein the body portion of the at least one catch device and the collar are cooperatively sized and configured such

that the body portion freely slides relative to the collar without substantial interference therebetween.

35. (Previously Presented) The platform assembly of claim 23, further comprising at least one catch device associated with the second assembly and positionable between a first position wherein a body portion of the at least one catch device associated with the second assembly projects from the intended working surface of the platform assembly and a second position wherein the body portion of the at least one catch device associated with the second assembly projects from the second opposing surface of the platform assembly.

36. (Previously Presented) The platform assembly of claim 23, further comprising a plurality of spacers, wherein at least one spacer of the plurality of spacers is disposed between adjacent longitudinally extending members of the first plurality of longitudinally extending members.

37. (Previously Presented) The platform assembly of claim 23, wherein at least one of the first and second pluralities of longitudinally extending members exhibits a closed polygonal cross-sectional geometry taken substantially transverse to a longitudinal axis thereof.

38. (Previously Presented) The platform assembly of claim 37, wherein the closed polygonal cross-sectional geometry includes a substantial rectangular geometry.

39. (Previously Presented) The platform assembly of claim 23, wherein at least one of the first and second pluralities of longitudinally extending members exhibits a substantially I-beam shaped cross-sectional geometry taken substantially transverse to a longitudinal axis thereof.

40. (Previously Presented) The platform assembly of claim 23, wherein at least one of the first and second pluralities of longitudinally extending members exhibits a cross-sectional geometry taken substantially transverse to a longitudinal axis thereof having a first section adjacent a first end thereof, a second section adjacent a second opposing section thereof and at least a third section disposed between the first section and the second section, wherein the at least a third section exhibits a lesser width than either of the first section and the second section.

41. (Original) The platform assembly of claim 23, wherein the first plurality of longitudinally extending members is interleaved with the second plurality of longitudinally extending members.